IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Bail Appl..No. 4522 of 2007()

CRIME NO.290/07 OF MANANTHAVADY POLICE STATION

: PETITIONERS/ACCUSED

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1. ABRAHAM SKARIAH,
   S/O.SKARIAH IDIKKULA, NELLANI KUNNIL HOUSE,
   PUTHUR P.O., KOZHUMMEL, (VIA) KARIVELLUR,
   KANNUR.

2. I.SKARIAH,
   NELLANI KUNNIL HOUSE,
   PUTHUR P.O., KOZHUMMAL, (VIA) KARIVELLUR,
   KANNUR.

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4522 of 2007

Dated this the 26th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners are the husband and father in law of the defacto complainant. The crime has been registered under Section 498 A I.P.C on the basis of a complaint filed by the defacto complainant before the learned Magistrate and forwarded by the learned Magistrate to the police under Section 156 (3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest. The marriage took place in February, 2003. The spouses are blessed with one girl child. There is discord in matrimony. The spouses lived initially along with aged parents of the husband. Later allegedly at the instance of the wife, they took up separate residence. Even thereafter, the defacto complainant went away to her house, it is urged. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Strain in the matrimony is prompting the defacto complainant to make reckless and exaggerated allegations. Anticipatory bail may be granted to the petitioners, it is prayed.

2. The learned Public Prosecutor does not oppose the application. I am satisfied in the facts and circumstances of the case that this is an eminently fit case where direction under Section 438

Cr.P.C can be issued in favour of the petitioners. In coming to this conclusion, I take note of the fact that there is no allegation of any serious physical assault or injury suffered by the defacto complainant. The reality that arrest and detention of the petitioners may mar all possibilities of harmony in the marriage does also weigh with me in sailing to that conclusion.

3. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 02.08.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 1 p.m on 03.08.2007 & 04.08.07 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall

thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 02.08.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 02.08.07.

(R.BASANT, JUDGE)

rtr/-